

Resolution No.:	<u>17-330</u>
Introduced:	<u>January 24, 2012</u>
Adopted:	<u>January 24, 2012</u>

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND**

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By: District Council

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**SUBJECT:** APPLICATION DPA 11-4, FOR DEVELOPMENT PLAN AMENDMENT of the development plan approved by the Council in LMA G-861 on November 18, 2008; Cindy M. Bar, Esquire, Attorney for the Applicant, Keating Project Development, Inc; OPINION AND RESOLUTION ON APPLICATION; Tax Account Nos. 07-00435988, 07-00435955 and 07-00435990.

**OPINION**

The application for Development Plan Amendment (DPA) No. 11-4 was filed by Keating Project Development, Inc., on September 2, 2011. It seeks to amend the previously approved development plan for the 7001 Arlington Road Post Office project in Bethesda by reducing the amount of commercial space on the site from 30,000 square feet to 7,000 square feet and increasing the number of dwelling units from 105 to 145. The amendment does not change the previously approved building volume and massing or its site layout (including building height and scale, setbacks, open space, and access points).

The reduction in commercial space is largely necessitated because the United States Postal Service (USPS), an originally proposed tenant, continues to consolidate facilities across the country and no longer wishes to keep this facility in Montgomery County. Despite the reduction in commercial space, the applicant still proposes to provide street-lining retail along Arlington Road to help further activate the roadway. However, removing the originally approved USPS workroom causes a 23,000 square-foot decrease in commercial space. Other notable changes to the plan include increasing MPDUs from 12.5 percent to 15 percent, reducing parking from 287 to 215 spaces, and removing an entire level of below-grade parking.

Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) filed an undated report (Exhibit 21) recommending approval of the Development Plan Amendment without the need for a hearing by the Office of Zoning and Administrative Hearings (OZAH). An Addendum to the Staff Report evaluating school capacity issues was issued on December 21, 2011 (Exhibit 22). In the interest of brevity, the Staff report and its Addendum are incorporated herein by reference.

At its regularly scheduled meeting on December 15, 2011, the Planning Board voted unanimously to recommend approval of DPA-11-4, based on the reasoning in the Technical Staff report. In the absence of any opposition, the Planning Board also recommended that the matter be forwarded to the Council without a public hearing before the Hearing Examiner, as permitted by Zoning Ordinance §59-D-1.74(c)(3). *See* Planning Board letter of December 21, 2011 (Ex. 23).

The Planning Board found that the additional units and decreased commercial space will not have any substantive impact on the development objectives for the area. The Board stated (Exhibit 23, pp. 1-2):

The proposal is consistent with the goals and objectives of the Bethesda CBD Sector Plan. The amendment will not alter the compatibility of the project with surrounding development or compliance with the PD-44 Zone's purpose and standards. The DPA is consistent with the findings made by the District Council at the time of the 2008 development plan approval and still satisfies all applicable standards with the additional dwellings and reduced commercial space.

Technical Staff described the subject site in its report (Exhibit 21, p. 2):

The subject property consists of approximately 2.7 acres located at 7001 Arlington Road, Bethesda, between Bethesda Avenue and Bradley Boulevard. The site is roughly a parallelogram in shape, with about 277 feet of street frontage on Arlington Road, and approximate depths of 487 feet along its northern property line and 423 feet along its southern property line. The majority of the site is impervious, and is currently developed with a United States Postal Service (USPS) facility, which includes a large surface parking lot and one entrance driveway along Arlington Road. The elevation rises about ten feet from the southwest corner of the site to the northeast corner. Vegetation is limited to a small lawn area with ornamental trees on the west side of the building, and several areas on the north and east sides of the parking lot with scrub vegetation. The site has no forest, streams, wetlands or specimen and significant trees.

The surrounding area, as outlined by Staff, consists of an area roughly bounded by Hampden Lane to the North, Woodmont Avenue and the Sacks residential neighborhood to the east, Bradley Boulevard to the south, and Fairfax Road/Clarendon Road to the west. Technical Staff described the area as follows (Exhibit 21, pp. 2-3):

The surrounding area is predominantly commercial in nature, containing a mix of uses. To the north and south, the subject property abuts commercial properties in the C-2 Zone such as a tire store and an auto dealership to the north, and an office and retail complex with multiple buildings and parking garage to the south. Farther north are additional retail and mixed use developments along Bethesda Avenue and Elm Street.

To the east, the subject property abuts the Capital Crescent Trail, a 90-foot wide public right-of-way containing a paved walking and biking trail. In the vicinity of the subject site, the Trail consists of a 10-foot wide asphalt path and a three-foot wide stone-edge path, as well as a landscaped seating area with benches and a water fountain that serves as a trailhead for the Bethesda Central Business District (CBD). On the east side of the Trail is a community of one-family detached homes known as the Sacks neighborhood, which is classified under the R-60 Zone. Roughly 600 feet east of the subject site is the boundary of the Bethesda CBD, and the Bethesda Metro Station is approximately 1,800 feet from the site.

To the west of the site, across Arlington Road, is the Bradley Shopping Center, which is zoned C-2 and contains a variety of retail establishments including a hardware store, a variety store, a drug store and a delicatessen. Diagonally to the northwest is the Euro Motorcars car dealership, and beyond it to the north is additional retail. Farther west, along Clarendon Road, is a row of multifamily and other residential uses.

The initial application, known as G-861, was filed in November 2006. After multiple hearings and substantial public testimony, including a remand procedure, the Council ultimately approved the PD-44 Zone for the property on November 18, 2008, in Resolution 16-768 (Exhibit 17). The development plan approved at that time (Exhibit 5), called for 105 dwelling units and 30,000 square feet of commercial space. The 30,000 square feet of commercial space on the site was comprised entirely of USPS uses: a 7,000 square-foot retail store along Arlington Road and a 23,000 square-foot workroom.

The Applicant is now proposing the following changes to the approved 2008 plan:

- A reduction in commercial space from 30,000 square feet to 7,000 square feet, due to the removal of the 23,000 square-foot USPS workroom
- An increase in residential units from 105 to 145, using bonus density provisions of §59-C-7.14(c)
- An increase in MPDUs from 12.5 percent to 15.2 percent
- A reduction in parking spaces from 287 to 215
- A reduction in gross floor area of the project from 195,000 to 172,000 (again, due to the removal of the 23,000 square-foot USPS workroom)

These changes are reflected in the proposed amended development plan, DPA 11-4 (Exhibit 30). Technical Staff describes the changes as follows (Exhibit 21, pp. 4-5):

Incorporating the above changes, the applicant now proposes a five-story, mixed use development consisting of multifamily residential and street-lining retail in a single building along Arlington Road. The residential component will have a maximum of 145 multifamily dwelling units, including 15 percent MPDUs. The maximum building height along Arlington Road will be 59.9 feet. The front façade of the building faces the Arlington Road streetscape, which will be enhanced during site plan review to provide a wide, pedestrian-friendly urban sidewalk at the subject property. The ground floor will contain 7,000 square feet

of retail space at the front façade of the building, with a parking structure comprising the remaining ground level. Due to the grade of the site, the retail along Arlington is at-grade, while the parking structure transitions to below-grade behind the retail storefronts. Therefore, parking and loading activities are provided below-grade, behind the retail storefronts and under the residential units, so associated trips and activity levels will have minimal impacts to pedestrians along Arlington road, trail users, or nearby residents of the Sacks neighborhood. The exterior wall of the parking structure will extend nearly to the rear property line adjoining the Capital Crescent Trail but will be almost fully underground. The originally approved lower level of the parking structure will be removed. The visible floors of the building will be set back 60 feet from the Capital Crescent Trail, creating a significant area for landscaped open space bordering this heavily trafficked portion of the path.

The ground-level will serve as a platform for the four-story residential portion of the building. The residential portion of the building will cover a roughly Z-shaped area of the parking facility roof, with two short wings parallel to Arlington Road and the Capital Crescent Trail, and a longer wing connected on the diagonal. The rest of the parking facility roof will be covered by landscaped terraces to comply with the PD Zone requirement that 50 percent of the site be occupied by green area. The terraces will be common space for building residents and will be accessible from the first floor of the residential portion of the building. The main entrance to the residential building will be at ground level, at the southern corner of the building's Arlington Road façade.

The walls of the four residential stories are specified to be 60 feet from the rear property line, not including patios or terraces. The 60-foot rear buffer is comprised of amenities consisting of patios, walkways and landscaped terraces gradually sloping to the Capital Crescent Trail. The elevation from the trail to the base of the residential building is approximately eight feet above the Capital Crescent Trail. As shown during the 2008 hearings, the proposed building will have no shadow impact on the Capital Crescent Trail, even during the time of the longest shadow at the winter solstice. If the amendment to the development plan is approved, the landscaped rear yard of the 60-foot buffer will be carefully articulated during site plan review to be a visually appealing amenity for users of the Capital Crescent Trail.

To allow the proposed changes, two binding textual elements on the 2008 development plan must be changed. Binding Element No. 3, which limited the total residential unit count to 105, would now limit the total residential unit count to 145, and the MPDU percentage specified in Binding Element No. 4, which had been 12.5%, will be raised to 15.2% (if 145 units are approved for construction). Despite the changes, the proposed building will have the same volume and massing as approved in the 2008 development plan.

The District Council agrees with Technical Staff that the intent of the Bethesda CBD Sector Plan continues to be served by this new proposal, even with the increase in dwelling units and the decrease in commercial square footage (Exhibit 21, p. 8):

This proposal continues to meet the intent of the Plan by adding housing to the CBD in a way that fits into the existing community, provides a transition from the one-family neighborhood to the commercial area of Arlington Road, and provides street-oriented commercial that helps maintain the Arlington Road District as a community retail and service business area. The increase in dwelling units does not affect the size, the height, or the form of the approved building in the original development plan and therefore the proposal continues to fit the neighborhood. The increase in dwelling units will also contribute to the Sector Plan objective of providing a variety of housing types within the CBD. The increase in number of dwelling units will result in additional moderately priced dwelling units, which furthers the objectives of the Sector Plan.

Technical Staff also reviewed the purpose clause and regulations of the PD-44 Zone, and the District Council finds that the proposed DPA would be compliant therewith. Exhibit 21, pp. 7-15. In addition, the District Council agrees with Staff's conclusion that "the impact from 145 dwelling units should not adversely affect the Bethesda-Chevy Chase school cluster." Exhibit 22.

The District Council further finds that the proposed DPA would not alter the compatibility of the project with surrounding development or compliance with the purposes of the PD-44 Zone; that the proposed development plan amendment is consistent with the findings made by the District Council at the time of the 2008 development plan approval; and that the development plan, as amended, would still satisfy all applicable standards. Exhibit 21, p. 15.

Applicant filed its affidavits of mailing and posting on January 6, 2011. Exhibits 26(a) and (b). On January 12, 2012, the Applicant submitted a revised Development Plan Amendment to correct a typographical error, thereby completing the record. The revised DPA 11-4 was marked as Exhibit 30.

As previously noted, the Planning Board recommended that the matter be forwarded to the Council without a public hearing before the Hearing Examiner, unless public opposition developed. There has been no opposition to DPA 11-4, and no request has been made for a hearing. Therefore, under the provisions of Zoning Ordinance §59-D-1.74(c)(3), "the office of zoning and administrative hearings [OZAH] must forward the planning board's report and recommendation directly to the council," without a hearing by OZAH. In these kinds of cases, the District Council's action is based solely on the record prepared by Technical Staff and the Planning Board's transmittal letter.

The record is now complete, and the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.

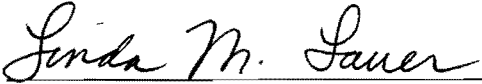
The District Council has reviewed DPA 11-4 and concluded that the DPA meets the requirements of the Zoning Ordinance, and its approval would be in the public interest. Based on this record, the District Council takes the following action.

**Action**

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

DPA 11-4, which requests an amendment to the Development Plan approved in LMA G-861, on November 18, 2008, in Resolution 16-768, by allowing a reduction in commercial space from 30,000 square feet to 7,000 square feet; an increase in residential units from 105 to 145; an increase in MPDUs from 12.5 percent to 15.2 percent; and a reduction in parking spaces from 287 to 215, **is hereby approved**, subject to the specifications and requirements of the Development Plan Amendment, Exhibit 30, **provided that** the Applicant submits to the Hearing Examiner for certification, a reproducible original and three copies of the Development Plan Amendment approved by the District Council, within 10 days of approval, in accordance with §59-D-1.64 of the Zoning Ordinance.

This is a correct copy of Council action.

  
Linda M. Lauer, Clerk of the Council